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Counsel for Plaintiff and the Proposed Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

PRESTON JONES and SHIRIN
DELALAT, on behalf of themselves, all
others similarly situated, and the general
public,

Plaintiffs,

v.

NUTIVA, INC.,

Defendant.

Case No: 3:16-cv-00711-HSG

**DECLARATION OF PAUL K. JOSEPH
IN SUPPORT OF PLAINTIFF'S
MOTION FOR ATTORNEYS' FEES
AND COSTS**

Date: July 13, 2017

Time: 2:00 p.m.

Place: Courtroom 2, 4th Floor

Judge: Hon. Haywood S. Gilliam, Jr.

1 I, Paul K Joseph, declare as follows:

2 1. I am a member in good standing of the state bar of California, and of the United
3 States District Courts for the Northern, Central, Eastern, and Southern Districts of California.
4 I make this Declaration based on my own personal knowledge in support of plaintiff's
5 motions for attorneys' fees and costs.

6 2. I have been practicing plaintiffs' side class action prosecution since 2012 and
7 have been operating my own practice since May 2015, which focuses exclusively on
8 consumer protection class actions. A firm biography is attached hereto as Exhibit A.

9 3. My practice is to keep contemporaneous records and to regularly record time
10 records in the normal course of business. My practice is to bill in 6-minute (tenth-of-an-hour)
11 increments and I kept time records in this case consistent with that practice.

12 **My Billing Rate**

13 4. I am the Principal of my firm and graduated law school in 2012. My current rate
14 is \$400 per hour.

15 5. This rate is consistent with the rate that the Honorable Katherine Bacal, of the
16 San Diego County Superior Court, approved for me earlier this year, on February 24, 2017.
17 (See Fitzgerald Decl. Ex. B at 2.)

18 6. This rate is also consistent with the prevailing rates in the community for
19 attorneys of similar experience, skill, and reputation, as reflected in recent Northern District
20 of California decisions..

21 7. In March 2017, the Honorable Edward M. Chen approved a rate of \$400 for Karl
22 Sung, an associate with four years of experience in civil litigation. *H.P.D. Consolidation, Inc.*
23 *v. Pina*, Case No. 15-cv-05309-EMC, 2017 WL 1046960, at *9 (N.D. Cal. Mar. 20, 2017).
24 This rate compares favorably to my same rate of \$400, given my additional year of
25 experience, and because I have been acting as a partner in this matter.

26 8. Also in March 2017, Judge Chen approved a rate of \$420 for junior associate
27 Peter C. Holm, who graduated in 2014. *Dropbox, Inc. v. Thru Inc.*, Case No. 15-cv-01741-
28 EMC, 2017 WL 914273, at *4 (N.D. Cal. Mar. 8, 2017); *see also id.*, Dkt. No. 153, at 14; *id.*,

Dkt. No. 154, at 8. *Compare* Peter C. Holm Lawyer Biography (<https://tinyurl.com/khkusko>). This rates also compares favorably to my rate of \$425, given that I have 2 years more experience than Mr. Holm.

9. In June 2015, the Honorable William H. Orrick approved a rate of \$640 for an associate with less than five years of experience, and a rate of \$710 for an associate with approximately six years of experience. *Wynn v. Chanos*, Case No. 14-cv-04329-WHO, 2015 WL 3832561, at *2, *6 (N.D. Cal. June 19, 2015), *aff'd*, --- Fed. Appx. ----, No. 15-15639, 2017 WL 1149508 (9th Cir. Mar. 28, 2017) (Mem.). This compares favorably to my rate of \$400 because I have almost five years of experience, and these rates were approved nearly two years ago.

10. In February 2015, the Honorable Laura Beeler approved a rate of \$450 for associate Marie McCrary who graduated in 2008 (approximately 6.5 years of experience at that time). *Miller v. Ghirardelli Chocolate Co.*, No. 12-CV-04936-LB, 2015 WL 758094, at *6 & n.3 (N.D. Cal. Feb. 20, 2015); *see also id.*, Dkt. No. 148-1, at ¶¶ 70, 74. My lower \$400 rate compares favorably given that I have nearly as much experience, and more than 2 years that have passed since Ms. McCrary's rate was approved.

11. The reasonableness of my rate is further demonstrated by the rates at which partners have been approved, which are well above my requested rate of \$400. *See Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 455 (9th Cir. 2010) (district court did not abuse its discretion in awarding 2008 hourly rates for Bay Area attorneys of up to \$875 for a partner and \$425 for an associate with approximately five years of experience); *Gutierrez v. Wells Fargo, N.A.*, 2015 WL 2438274, at *5 (N.D. Cal. May 21, 2015) (awarding attorneys' fees for partners who billed between \$475 and \$975 per hour and associates with hourly rates between \$300 and \$490); *Banas v. Volcano Corp.*, 47 F. Supp. 3d 957, 965 (N.D. Cal. 2014) (accepting hourly rates ranging from \$355 to \$1,095 for partners and associates in the San Francisco Bay Area); *Minor v. Christie's, Inc.*, 2011 WL 902235, at *7 (N.D. Cal. Jan. 28, 2011) (approving rates of \$600 - \$700 for partners); *Iguacu, Inc. v. Filho*, 2014 WL 3668574, at *3 (N.D. Cal. July 23, 2014) (approving discounted partner rates of \$485 - \$625); *In re*

1 *Magsafe Apple Power Adapter Litig.*, 2015 WL 428105, at *12 (N.D.Cal. Jan. 30, 2015) (“In
 2 the Bay Area, reasonable hourly rates for partners range from \$560 to \$800”); *Wynn*, 2015
 3 WL 3832561, at *6 (approving rates of \$875-\$1,085 for partners).

4 **Time Spent on this Matter**

5 12. In calculating my reasonable lodestar for purposes of this fee application, I began
 6 with my raw records, then carefully reviewed all individual entries and exercised billing
 7 discretion to cut time or entries. Specifically, I cut entries that were administrative, such as
 8 preparing chambers copies, service of documents, arranging court reporting services for
 9 depositions, travel arrangements, calendaring deadlines, and downloading docket entries.

10 13. Likewise, I cut or did not bill a large number of entries related to case
 11 management, such as the vast majority of calls with co-counsel. Mr. Fitzgerald and I, for
 12 instance, discuss case strategy and assignments but rarely bill for such case management time.
 13 I estimate that we have each spent at least twenty hours conducting such calls over the course
 14 of the litigation, for which we are not seeking reimbursement despite that these calls are vital
 15 to the effective coordination of efforts and plaintiff’s ultimate success.

16 14. Both firms also cut entries that were exclusively directed towards proving
 17 damages, including, for example, work with survey and damages experts, and discovery
 18 related solely to Nutiva’s sales and the pricing of its coconut oils. In total we cut 13.3 hours
 19 related to damages.

20 15. After an initial round of cuts, we arranged the hours into tasks, then reviewed
 21 them again and made additional cuts. The result of this review-and-cut process is reflected in
 22 the detailed time records attached to the Fitzgerald Declaration as Exhibits D-E.

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

By: /s/ Paul K. Joseph
Paul K. Joseph